

R E M A R K S

Claim 1 remains in this application. By this Amendment, claim 1 has been amended. No new matter is involved. Basis for the amended claim language is found throughout Applicants' originally filed disclosure including, for example, Figs. 3 and 4b, and the description of this figures in the specification including, for example, from page 7, line 11 to page 8, line 13.

Applicants respectfully note that, although the Office Action Summary form (PTO-326) indicates that this is a final Office Action, the body of the Office Action does not state that, the USPTO's PAIR system clearly indicates that the Office Action is a non-final and, when contacted by telephone on March 16, 2004, Examiner Addison stated that the Office Action is a non-final Office Action. Under the circumstances, this Amendment is being filed under 35 USC §111 and, as such, this Amendment should be entered as a matter of right.

Claim 1 stands rejected under 35 U.S.C. 103(a) as being unpatentable over APA in view of U.S. Patent 6,215,206 to Chitayat. This rejection is respectfully traversed for the following reasons.

Neither the conventional art shown in Figs. 1 and 2 nor Chitayat disclose or suggest a rotor including first, second and third shafts wherein the second shaft forms a predetermined interval between the first and third shafts to be coaxial with the

first and the second armature coil parts of the stator, as recited, nor do they suggest the claimed arrangement of cylindrical magnets on the first shaft and the elongated magnets coaxial with the axis of the third shaft and located around the third shaft, as recited.

Moreover, a showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." C.R. Bard, Inc. v. M3 Sys. Inc., 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." See In re Dembiczak, 175 F.3d 994 at 1000, 50 USPQ2d 1614 at 1617 (Fed. Cir. 1999).

The Office Action asserts that it would be obvious to modify the Fig. 1 and 2 conventional art with the permanent magnet configuration of Chitayat "for the purpose of allowing the first and second members to move continuously in a rotational and linear mode."

Applicants respectfully submit that this is nothing more than a broad conclusionary statement which, as pointed out in Dembiczak, cited above, does not constitute evidence of proper motivation to combine these two references.

Moreover, as pointed out on pages 2 and 3 of this Office Action, which refers to the conventional art disclosed in Figs. 1

and 2, that the conventional art's rotary portion already has a checked pattern. Under these circumstances, it is not clear why one would be motivated to use Chitayat's checked pattern, for example, instead of the checked pattern already in the conventional art.

Accordingly, the Office Action fails to make out a prima facie case of obviousness of the claimed invention.

In view of the above amendments and remarks, reconsideration of the rejection and allowance the claim of the present application are respectfully requested.

Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mr. Robert J. Webster (Reg. No. 46,472) at the local telephone number set forth below.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By James T. Eller #41,458
James T. Eller, Reg. No. 39,538

JTE/RJW/jao
3687-0101P

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000